

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.12686 of 1999

Between:

G.Devadanam S/o Late Rosaiah
H.No.14/66, HB Colony, Durga Nagar Visakhapatnam-22
Visakhapatnam District.

..... PETITIONER

AND

- 1 The Government of Andhra Pradesh rep.by its Chief Secretary
Secretariat, Hyderabad
- 2 The Government of Andhra Pradesh rep.by its Principal Secretary
Social Welfare Department, Secretariat, Hyderabad
- 3 The Collector & District Magistrate, Visakhapatnam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order direction more in the nature of the writ of Mandamus directing the respondents to set aside the GO.Ms.No.5, Social Welfare (P) Department, dt.24/01/1981 and its subsequent enclosed GOs etc., declaring the same to be illegal.

Counsel for the Petitioner: Sri B.VEERAI AH

Counsel for the Respondents: G.P. for Social Welfare

The Court made the following :

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ORAL JUDGMENT: (per THE HON'BLE THE CHIEF JUSTICE)

Petitioner in this writ petition is questioning G.O.Ms.No.5, Social Welfare (P) Department, dated 24-1-1981 and prays that the said G.O. be quashed, since it is causing grave discrimination.

Petitioner states that he is educated in Andhra University and belongs to Scheduled Caste. His father also belongs to Scheduled Caste. He is worshipping Lord Jesus and developed faith in Christianity. His father was worshipping Hindu idols. Petitioner also states that Scheduled Caste people are otherwise called as 'Dalits' and almost all Dalits are Backward in society in the fields of economics, religion and politics. They are called weaker sections and downtrodden in the society. Government undertook to strengthen their position by making reservations in their favour. Petitioner further states that Government is arranging reservations for Dalits and at the time same, has put restriction. G.O.Ms.No.43 was issued on dated 8-3-1990, which restricts the Scheduled Caste people not to embrace any religion other than Sikhism, Budhism and Hinduism and if they join other religion, they will lose their benefits. But, Scheduled Tribe people can enjoy any religion and they do not have any such restriction. Therefore, the impugned G.O. is discriminating. Dalits are discriminated and tortured by Government directly or indirectly and the restriction is put only on Dalits. If any O.C. person joins Christianity, there is no bar for him and his social status shall remain, but if a Scheduled Caste person joins Christianity, he will be losing his social status as well as job opportunities.

We have gone through G.O.Ms.No.5, dated 24-1-1981, wherein the existing entry under Group 'C' in the list of Socially and Educationally Backward Classes appended as Annexure-I to G.O.Ms.No.1793, Education, dated 23-9-1970 has been amended substituting the earlier entry with the following entry:

"Scheduled Castes Converts

1. Scheduled Castes converts to Christianity and their progeny".

Petitioner challenges the discrimination treating Dalits, who embraced Christianity, as Backward Class 'C' and other Dalits joining Sikhism and Buddhism continued to be treated as Scheduled Caste. In such like petition purported to have been filed as PIL by a person, who claims to be belonging to Scheduled Caste and a convert Christian, cannot be entertained, since he did not specifically state as to how he is affected. Such a challenge made without any complete case being brought to us would be requiring us to decide theoretical questions. This petition was filed in the year 1999 challenging Governmental Order of the year 1981. In such like cases, to answer theoretical questions is not at all appropriate. Question can be examined by the appropriate Government. It is brought to our notice that similar matter is under consideration before the Government. Constitutional Courts will not answer such like questions raised by petitioner and liberty is reserved to petitioner to raise the question before the appropriate authority. Leave and liberty is granted to petitioner.

Writ petition is dismissed. No costs.

(DEVINDER GUPTA, CJ)

23rd August, 2004

(C.V. RAMULU,J)

Prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Chief Secretary, Government of Andhra Pradesh,
Secretariat, Hyderabad
- 2 The Principal Secretary, Social Welfare Department
Government of Andhra Pradesh, Secretariat, Hyderabad
- 3 The Collector & District Magistrate, Visakhapatnam District, Visakhapatnam.
- 4 . 2CCs to Govt Pleader for Social Welfare, High Court Buildings, Hyderabad (O.U.T.)
5. 2CD copies